

**NEWPORT BEACH PLANNING COMMISSION MINUTES**  
**Council Chambers – 3300 Newport Boulevard**  
**Thursday, July 19, 2012**  
**REGULAR MEETING**  
**6:30 p.m.**

I. **CALL TO ORDER** – The meeting was called to order at 6:30 p.m.

II. **PLEDGE OF ALLEGIANCE** – Commissioner Ameri

III. **ROLL CALL**

PRESENT: Ameri, Brown, Kramer, Myers, Toerge, and Tucker  
ABSENT (Excused): Hillgren

Staff Present: Kim Brandt, Community Development Director; Brenda Wisneski, Deputy Community Development Director; Leonie Mulvihill, Assistant City Attorney; Tony Brine, City Traffic Engineer; Fern Nueno, Assistant Planner; Makana Nova, Assistant Planner; Janet Johnson-Brown, Associate Planner; and Jim Campbell, Principal Planner

IV. **ELECTION OF OFFICERS**

Chair Toerge introduced the item, presented a brief background and called for nominations for the positions of Chair, Vice Chair, and Secretary of the Planning Commission. He noted that nominations do not require a second and explained the election process.

**ITEM NO. 1** The Commission will elect officers to serve for the year.

**NOMINATION:** Commissioner Tucker nominated Chair Toerge for Chair, Vice Chair Hillgren for Vice Chair, and Commissioner Ameri for Secretary.

**NOMINATION:** Commissioner Myers nominated Chair Toerge for Chair, Vice Chair Hillgren for Vice Chair, and Commissioner Tucker for Secretary.

Commissioner Tucker declined nomination for Secretary.

Commissioner Tucker's nominations were approved (6 – 0), with Vice Chair Hillgren absent.

AYES: Ameri, Brown, Kramer, Myers, Toerge, and Tucker  
NOES: None  
ABSTENTIONS: None  
ABSENT (Excused): Hillgren

V. **PUBLIC COMMENTS**

Chair Tucker invited those interested in addressing the Commission on items not on the agenda, to do so at this time.

Dan Purcell commented on commercial waste haulers City-wide, noting that he will continue to address the issue relative to the condition of various restaurants throughout the City. He presented examples of restaurant dumpster areas that needed attention and that have been cleaned up. He highlighted other areas in need of cleaning.

There being no others wishing to address the Commission, Chair Toerge closed the public comments portion of the meeting.

**VI. REQUEST FOR CONTINUANCES - None**

**VII. CONSENT ITEMS**

**ITEM NO. 2 MINUTES OF JULY 5, 2012**

Interested parties were invited to address the Commission. There was no response and Chair Toerge closed public comments on this item.

**Motion** made by Commissioner Tucker and seconded by Commissioner Myers, and carried (6 – 0) with Vice Chair Hillgren absent, to approve the minutes of July 5, 2012, as presented.

AYES: Ameri, Brown, Kramer, Myers, Toerge, and Tucker  
NOES: None  
ABSTENTIONS: None  
ABSENT (Excused): Hillgren

**VIII. PUBLIC HEARING ITEMS**

**ITEM NO. 3 ROSE BAKERY CAFÉ USE PERMIT REVIEW (PA2010-103)  
Site Location: 3536 East Coast Highway**

Assistant Planner Fern Nueno presented details of the report addressing the previous approval of an amendment to the Use Permit, conditions of approval specifically requiring a one-year review to determine compliance with the conditions of approval and effectiveness of the Parking Management Plan, site location, existing conditions, off-site parking, use of parking lot by employees and customers until 5:00 p.m., hours of operation, conformance with all conditions of approval, findings and recommendations. She noted that since approval of the use permit there have been three complaints regarding trash, that the trash container is shared by other tenants, and that with staff has worked with the applicant and property management company to resolve the issues.

In response to Commissioner Tucker's inquiry, Ms. Nueno noted that the current review is the one-year and last review required under the conditions of approval.

Shawn Lim, Applicant, inquired regarding the off-site parking agreement and the number of parking spaces required. He was advised that there are no changes regarding the issue and the original approval waived 15 parking spaces.

Interested parties were invited to address the Commission on this item.

Dan Purcell spoke in support of the project but suggested adding conditions of approval relative to the trash dumpster, such as requiring the use of one waste hauler and acquiring new bins that will not leak, the location of parking signs, and an existing bench, and he asked that the applicant take ownership of his area.

Christine Lester, Property Manager, Pacific West Asset Management Corporation, reported that the trash enclosure is being power washed twice a month now instead of once a month and that they have ordered a replacement trash can with a cover.

Lance Ellers, Rose's employee, spoke in support of the restaurant and the City.

There being no others wishing to address the Commission, Chair Toerge closed public comments for this item.

Chair Toerge reported on the Corona del Mar, Vision 2000 Plan which sought to make Corona del Mar a friendly neighborhood and encourage neighborhood cafes with outdoor seating, one of which is Rose Bakery Café.

Commissioner Ameri inquired about the bench outside of the venue and discussion followed. Ms. Nueno noted that the bench was located in the public right-of-way, that the owners have been made aware of the proper procedure for obtaining a bench to be placed in the public right-of-way, and that staff will work with the applicant to find a location on-site for the existing bench.

**Motion** made by Commissioner Brown and seconded by Commissioner Tucker, and carried (6 – 0) with Vice Chair Hillgren absent,, to receive and file the application.

AYES: Ameri, Brown, Kramer, Myers, Toerge, and Tucker  
NOES: None  
ABSTENTIONS: None  
ABSENT (Excused): Hillgren

**ITEM NO. 4 COAST POINT (PREVIOUSLY KNOWN AS CHINA PALACE) USE PERMIT REVIEW (PA2010-082)**  
**Site Location: 2800 West Coast Highway**

Assistant Planner Makana Nova presented details of the report addressing background, approval of the original use permit, site location, off-site parking, approval of live entertainment and dancing, floor area, hours of operation, compliance with all conditions, calls for Police service, a request to review sales receipts by the Police Department, Code Enforcement violations, findings and recommendations. She noted that the Planning Division worked with the applicant to remove the happy hour signage that was not in compliance with the original conditions of approval.

Chair Toerge invited the applicant to address the Commission at this time.

Dennis O'Neal, representing the applicant, spoke in support of the item.

Interested parties were invited to address the Commission. There was no response and Chair Toerge closed public comments for this item.

**Motion** made by Commissioner Brown and seconded by Commissioner Tucker, and carried (6 – 0) with Vice Chair Hillgren absent, to receive and file the application.

AYES: Ameri, Brown, Kramer, Myers, Toerge, and Tucker  
NOES: None  
ABSTENTIONS: None  
ABSENT (Excused): Hillgren

**ITEM NO. 5 WIRELESS TELECOMMUNICATIONS FACILITIES ORDINANCE (PA2012-057)**  
**Site Location: N/A**

Community Development Director Brandt introduced the item and reported that staff received several correspondences regarding the proposed ordinance and related potential concerns. She

reported that staff is not in a position to respond to all at this time and recommended that the Commission hear the presentation, receive public comments and allow a one-month continuance to allow adequate time to review comments, meet with stakeholders and return to the Commission with a summary of the issues to be resolved.

Commissioner Myers agreed with staff recommendations.

Associate Planner Brown presented details of the report addressing the proposed code amendment, and provided background of the initial adoption of the ordinance by City Council in 2002. Ms. Brown reviewed the existing regulations and proposed revisions, and identified areas that could be updated and improved upon within the regulations. She addressed Federal law and requirements regarding radio-frequency emissions safety. She presented information regarding review authorities, noticing requirements, application requirements, the appeal process, installations in the public right-of-way, design standards and criteria, requests for variances and setback requirements.

In respond to Commissioner Ameri's inquiry, Ms. Brown reported that a five percent change reference in the draft ordinance would apply to physical changes in the height, width, diameter or the size of the area surrounding antennas.

In reply to Commissioner Myers inquiry regarding the level of outreach provided, Ms. Brown reported that emails were provided to telecommunications contacts advising them of the City Council study session conducted in March, and for this public hearing.

Interested parties were invited to address the Commission on this item.

Bill Dildine reported on a substantial amount of work taking place at the AT&T building and expressed concerns regarding what is going on there. He addressed lack of parking related to the building and new antennas.

George Schroeder spoke in support of the amended ordinance if it will allow for better coverage.

Jim Mosher thanked Ms. Brown for her report and presented a picture of an installation that would be allowed by the new ordinance as well as a preferred alternate design. He felt that the ordinance is flawed and defective but agreed with the new rules and addressed co-locations and opined the issue needs more work and consideration.

Dean Brown, California Wireless Association, addressed increased demands in capacity, public safety and the related importance of wireless communication, deployment of facilities without delay and details of the PEACE App.

John Heffernan, Mission Viejo, Director of External Affairs at AT&T, congratulated staff on its decision to continue the item and expressed appreciation for the opportunity to provide comments.

Michelle Felten, Core Development Services, thanked staff for the presentation and commended the City for reviewing the ordinance and recommending updates. She stated agreement with the continuance request and stated her organization submitted comments.

There being no others wishing to address the Commission, Chair Toerge closed public comments for this item.

**Motion** made by Commissioner Myers and seconded by Commissioner Tucker, to continue this item until August 23, 2012.

In response to Commissioner Tucker's inquiry regarding the roll of the Commission and the possibility of scheduling a workshop to study the item, allowing additional time for review, Community Development Director Brandt suggested continuing the item to a date certain (August 23, 2012) and return with a report in anticipation of scheduling a study session with the Planning Commission. She offered that the Commission could continue the item to the first meeting in September as well.

She reported that there is no scheduling issue but did want to continue with the momentum in order to address the issue.

Discussion followed regarding the possibility of scheduling a study session on September 6, 2012. Commissioner Myers and Commissioner Tucker agreed to amend the motion to continue the item to the Planning Commission meeting of September 6, 2012.

**Amended Motion** made by Commissioner Myers and seconded by Commissioner Tucker, and carried (6 – 0) with Vice Chair Hillgren absent, to continue this item until September 6, 2012.

AYES: Ameri, Brown, Kramer, Myers, Toerge, and Tucker  
NOES: None  
ABSTENTIONS: None  
ABSENT (Excused): Hillgren

Community Development Director Brandt announced the retirement of Ms. Brown and congratulated her on her accomplishments.

Chair Toerge thanked Ms. Brown for her years of service to the City.

## **IX. NEW BUSINESS**

### **ITEM NO. 6 BALBOA VILLAGE IMPLEMENTATION PLAN (PA2011-224) Site Location: Balboa Peninsula between 7<sup>th</sup> Street and A Street including Balboa Village**

Principal Planner Jim Campbell presented details of the Implementation Plan which addresses the recommendations of the Balboa Village Citizens Advisory Panel (CAP) which were developed following a series of public meetings to create a new vision for Balboa Village and implementation strategies to revitalize the area. He presented details of the Plan including key issues, opportunities, vision and branding. He noted that the area of focus began with the commercial area within Balboa Village and it expanded to include abutting residential areas to the west. Mr. Campbell reported that a consultant was hired to conduct an economic and marketing analysis. He indicated that there is market support for a hotel, residential uses, mixed-use development. He noted that the Plan discusses cultural catalyst uses such as the Nautical Museum and the Balboa Theater as well as the City-owned property at Palm Street. He noted that the consultant worked with Visit Newport Beach to create the vision and brand promise and referenced a separate presentation provided in the agenda packet.

Mr. Campbell noted the recommendation to expand the Fun Zone to have it include the entire commercial area and using the name as the "Balboa Village Fun Zone." He indicated the proposed brand vision and brand promise statements, the need to change signage in the area, a proposed a commercial façade improvement program, developing a targeted tenant-attraction improvement program, special events initiatives in the off-peak and the creation of an RV camping area on the main Balboa parking lot. He noted that the City of Huntington Beach has implemented a successful RV camping area that generates revenue for the city. In addition, he highlighted the possible development of the City-owned Palm Street parking lot parcel. Mr. Campbell presented

initiatives relative to parking management and the possibility of changing parking requirements. He indicated that the draft plan includes a recommendation for the establishment of a residential parking permit in the area and creation of a shared parking district. In addition he addressed the possible elimination of the commercial parking requirements in the district for new and intensified development, elimination of the in-lieu fees for parking in the district, termination of the current payee obligations and continuance of enhanced Code Enforcement efforts. He stated that another recommendation was to pursue the local Coast Program and he indicated that the draft plan included a recommendation for additional public infrastructure, increased maintenance of the fun zone boardwalk, and it recommends a governance structure to oversee execution of the recommendations.

Mr. Campbell reported that the Harbor Commission was generally supportive of the recommendations within the draft Pan but expressed concerns regarding accessibility to and from the waterfront by the boating public. He concluded that the draft Plan will be reviewed by Council subsequent to the Planning Commission hearing.

In respond to Chair Toerge's inquiry regarding reconciliation of the elimination of commercial parking requirements with a residential parking permit program, Mr. Campbell stated that the key concept is reliance on additional alternative transportation ideas and felt that the spill-over residential parking permit program will assist in addressing the issue. He added that adequate parking is available during most of the year except during the summer and noted the importance of maintaining and managing the existing parking resources.

In reply to Commissioner Myers's inquiry, Mr. Campbell reported that the proposed residential parking program would allow residents to park overnight upon availability of space with a valid permit.

Commissioner Tucker suggested to only focus on issues that are within the jurisdiction of the Planning Commission. He noted that elimination of the parking requirements would require a zone text amendment and he inquired regarding in-lieu parking fees.

Mr. Campbell reported that parking requirements will come back before the Planning Commission and that there is a provision within the zoning code that deals with the in-lieu parking fee program. The pricing of the in-lieu fee program is not within the Zoning Code, so it would not come before the Commission directly. He noted that current revenue from the in-lieu program is minimal and that Council has suspended additional program participants. He added that should these recommendations be enacted, monitoring them going forward is recommended.

Commissioner Tucker noted that some of the changes will run with the land and inquired regarding adoption of the Local Coastal Plan. Mr. Campbell reported that State law requires a Local Coastal Plan but that there are provisions that allow segmenting.

Discussion followed regarding continuing Code Enforcement programs and establishing an overnight residential parking permit program. Mr. Campbell reported that the latter would require ordinances by Council to establish such a program.

Commissioner Ameri's commented on items under the Planning Commission's jurisdiction and the Commission's ability to provide comments.

Commissioner Brown inquired regarding the proposal for RV overnight parking and Mr. Campbell reported that the item would not return to the Commission, but would be a public improvement project under the jurisdiction of the City Council.

Community Development Director Brandt reported the charge of the CAP was to develop strategies that would need additional work and could be pursued by staff per the direction of Council. She stated that staff would appreciate any comments from the Commission and will transmit them to Council as part of the agenda report.

Commissioner Brown stated that ExplorOcean has a plan for the site. He inquired regarding consistencies between their vision and the CAP's.

Ms. Brandt stated that representatives from ExplorOcean were at every CAP and NRC meetings and are interested in being a part of the plans for the area. They will be presenting their vision at an upcoming Council study session. She noted that whatever they do will be complimentary to the CAP recommendations.

Discussion followed regarding Harbor and Planning Commission jurisdictions. Ms. Brandt reported that staff would need to look at the appropriate permitting authority for each Commission.

Mr. Campbell noted that the Planning Commission would have authority over the "dry land" part of the project as well as environmental documents and that water improvements would need Harbor Commission input.

Mr. Campbell reported that Chris Miller is the Harbor Resource Manager and is the permitting authority for the Harbor Permits. He brings larger projects forward to the Harbor Commission for their input.

Interested parties were invited to address the Commission on this item.

Don disagreed with calling the area a "Fun Zone", addressed the revised boundaries, the residential parking permit and felt that Bay Island should not be included in the area. He encouraged the Commission to point out the sensitivity of the parking issues and spoke in support of a trial study area.

Marian Doe agreed with proposed improvements but expressed concerns with speeding drivers on Balboa Boulevard. She indicated that need for additional enforcement and support for improved identification of crosswalks.

Dan Purcell pointed out that meetings were scheduled during the day, thereby not allowing working residents to provide input. He noted that meetings were run by the consulting group and addressed façade improvements versus neighborhood improvements, residential parking permits, ExplorOcean plans and noted that there were a high number of variables.

Chuck Walton disagreed with calling the area a "Fun Zone" and did not feel there will be parking spillage in his neighborhood. He inquired whether the parking spaces will be defined and the timing for implementation of the plan. In addition, he questioned having to pay in order to park in front of his house.

Charles Remley commented on the Balboa Theater and questioned if it will ever be self-sustaining. He expressed concerns with the Nautical Museum as well and acknowledged the need to improve streetscapes. He questioned how this resident parking program would be enforced and recommended allowing all-day parking on all cross streets from the Bay to the oceanfront. He also commented on way-finding sign studies.

Commissioner Tucker noted that parking permit programs are not within the jurisdiction of the Planning Commission.

Mr. Campbell noted that the program would be under the jurisdiction of Council.

Howard Hall expressed concerns and spoke in opposition to the proposed resident parking permit plan and presented suggested boundaries (Adam's to Medina) and allowing two-hour parking in the BID area. In addition, he referenced the on-line survey used for the branding/visioning process and he noted that "Balboa" was not a choice offered and could only be offered as a suggestion as a "write-in" response. He expressed opposition to adding "Fun Zone" to the name and distributed copies of his written comments.

Jim Mosher commented on the commercial façade improvement program, the Palm Street parking lot and the residential parking permit program.

Bill Dildine commented on the parking plans and in opposition to the residential parking permit plan.

Michael Murphy spoke in opposition to the residential parking permit plan.

Buzz Person spoke representing a number of harbor excursion businesses in the village and noted there is enough parking but felt that eliminating parking requirements will motivate property owners to improve their properties. He noted that some water-related uses can greatly affect land uses (i.e., traffic and parking).

There being no others wishing to address the Commission, Chair Toerge closed public comments for this item.

In response to an inquiry from Chair Toerge, Mr. Campbell explained the study area and expansion of the fun zone boundary to match the reduced BID boundaries. He indicated that the recommendation to make the BID smaller is due to a transition of land uses throughout the years. He indicated the boundary of the proposed residential parking permit program area, commercial parking areas, delineation of parking spaces and related parking availability, and the approval process of the Implementation Plan.

Mr. Campbell noted that once the Plan is approved by Council, staff will be authorized to pursue the work plan and once the programs are approved by Council, the various components will be presented to the Coastal Commission for final authorization.

In reply to Chair Toerge's question regarding effects to the Pacific Telephone building, Mr. Campbell reported that Code Enforcement could be stepped up to encourage them to maintain the building. Chair Toerge agreed that additional consideration and outreach needs to be given to naming the area and felt that further subsidy of Balboa Theater is not the best use of public funds and that he would not support engaging public funds to benefit a particular business.

Discussion followed regarding the ability to tear down a building if it sustains major damage and the need to comply with zoning codes (i.e. off-street parking).

Commissioner Kramer indicated he is generally, in favor of revitalizing Balboa Village but questioned the prudence of the "Fun Zone" naming. He noted that there was a lack of historical background in the report and he questioned the efficacy of the proposed RV use and the residential parking permit plan.

Commissioner Ameri agreed with Commissioner Kramer's comments regarding naming the area.



Commissioner Tucker stated that commercial areas are driven by sales and noted the need for increased customers and less competition in order to end up with a more vibrant area. He felt this would entail some level of incentives or re-zoning current commercial properties to residential. He noted that landlords will reinvest in their properties for a financial return and won't otherwise.

Commissioner Brown stated that he concurs with previous comments and felt that the boundaries need to be scaled back in order to focus on commercial areas and parking issues.

Community Development Brandt reported that the minutes from this meeting including comments from the Commission and the public will be presented to Council at an upcoming meeting.

## **X. CONTINUED BUSINESS**

### **ITEM NO. 7 REVIEW OF RULES OF PROCEDURES OF THE PLANNING COMMISSION (PA2012-065) Site Location: N/A**

Ms. Brandt noted the item has been on the Commission's agenda for several meetings and noted that based on the Commission's comments presented previously, staff drafted proposed changes to the Commission's Rules and Procedures. She stated that no comments were received on the proposed changes and presented a final draft for consideration and adoption.

Interested parties were invited to address the Commission on this item.

Jim Mosher addressed the records retention time and indicated he would favor retaining records for a longer period that suggested. He referenced procedures for amendments and asked for clarity regarding the actions at this time. He felt that it would be wise for the Commission to adopt the complete document rather than just the changes.

Assistant City Attorney Mulvihill noted that the City has an adopted records retention policy which is referenced within the By-Laws and felt that it is not necessary to include them in the By-Laws.

Dan Purcell commented on videoing meetings and felt that the section on publishing and local media needs to be re-vamped as a whole, City-wide.

There being no others wishing to address the Commission, Chair Toerge closed public comments for this item.

Assistant City Attorney Mulvihill recommended approval of the amendments to the By-Laws.

**Motion** made by Commissioner Tucker and seconded by Commissioner Ameri, and carried (6 – 0) with Vice Chair Hillgren absent, to, in accordance with Section XV of the Procedures, approve the amendments to the Rules of Procedures of the Planning Commission.

AYES: Ameri, Brown, Kramer, Myers, Toerge, and Tucker  
NOES: None  
ABSTENTIONS: None  
ABSENT (Excused): Hillgren

**XI. STAFF AND COMMISSIONER ITEMS****ITEM NO. 8 COMMUNITY DEVELOPMENT DIRECTOR'S REPORT**

Community Development Director Brandt reported that at this point, there is nothing scheduled for the Planning Commission meeting to August 9, 2012, and that there may be an opportunity to cancel that meeting. In addition, she stated that the amendments approved for the Newport Place area received first reading by Council and announced that the Newport Banning Ranch project will be heard by Council at a special meeting on July 23, 2012, at 6:00 p.m.

Ms. Mulvihill noted that the meeting will begin at 5:00 p.m. but that it is anticipated Council will be in closed session until 6:00 p.m.

**ITEM NO. 9 ANNOUNCEMENTS ON MATTERS THAT THE PLANNING COMMISSION MEMBERS WOULD LIKE PLACED ON A FUTURE AGENDA FOR DISCUSSION, ACTION, OR REPORT.**

None

**ITEM NO. 10 REQUESTS FOR EXCUSED ABSENCES**

Commissioner Tucker and Chair Toerge requested excused absences on August 9, 2012.

**XII. ADJOURNMENT**

There being no further business to come before the Planning Commission, the meeting was adjourned at 9:02 p.m.

The agenda for the Regular Meeting was posted on July 13, 2012, at 8:40 a.m. on the City Hall Bulletin Board located outside of the City of Newport Beach Administration Building.

---

Michael Toerge, Chairman

---

Fred Ameri, Secretary